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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,869	03/18/2004	Hiraku Murayama	018961-067	5448
21839 7590 09/28/2007 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER HOEKSTRA, JEFFREY GERBEN	
			ART UNIT 3736	PAPER NUMBER
			NOTIFICATION DATE 09/28/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com  
debra.hawkins@bipc.com

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<b>Office Action Summary</b>	<b>Application No.</b> 10/802,869	<b>Applicant(s)</b> MURAYAMA ET AL.	
	<b>Examiner</b> Jeffrey G. Hoekstra	<b>Art Unit</b> 3736	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 and 26-32 is/are pending in the application.
- 4a) Of the above claim(s) 3, 6-8 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 9, 10, 12-14 and 26-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Species A and Species AA, drawn respectively to Figures 1 and 5, in the reply filed on 07/18/2007 is acknowledged.
2. Claims 3, 6-9, and 11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 07/18/2007.
3. The Examiner disagrees with Applicant's contention that claims 1, 12, 13, and 14 are generic to the sets of species set forth in the Restriction Requirement mailed 06/18/2007. Claims 12, 13, and 14 are not generic because they positively recite subject matter drawn to at least Figure 7, specifically reciting a joining of portions by welding.
4. However, the Examiner notes *claims 1, 4, 5, and 26 are generic* to the identified species.
5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### *Priority*

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6. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Specification***

7. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 2, 4, 5, 9, 10, 12-14, and 26-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Skujins et al. (US 2003/0069520 A1, hereinafter Skujins).

10. For claims 1, 4, 5, 9, 10, 12-14, and 26-29, Skujins discloses a guide wire (10), comprising:

- a distal end side portion (as best seen as the portion of element 16 extending off the right-side of Figures 1-3) having a proximal end and formed of a first metallic material comprising a Ni-Ti based alloy (paragraph 15);

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- a proximal end side portion (as best seen as the portion of element 14 extending off the left-side of Figures 1-3) having a distal end and formed of a second metallic material comprising stainless steel (paragraph 14), wherein stainless steel is inherently higher in rigidity than a Ni-Ti based alloy and thus said proximal end side portion is higher in rigidity than said distal end side portion (paragraphs 14-15); and
- an intermediate portion (20) provided between said distal end side portion and said proximal end side portion (as best seen in Figures 1-3), said intermediate portion being a cylindrical filamentous portion having a circular cross-section and being a thin wire (paragraphs 13-15), said intermediate portion having a proximal end and a distal end (as best seen in Figures 1-3), and said intermediate portion having a gradient physical property portion (12) formed of a metallic material mixture (paragraphs 12 and 21-27) containing said first metallic material and said second metallic material (paragraphs 16-21),
- wherein in said portion of said intermediate portion a weight ratio of said first metallic material in the metallic material mixture decreases from the distal end side portion toward the proximal end side portion and a weight ratio of said second metallic material increases from the distal end side portion toward the proximal end side portion (paragraphs 16-25),
- wherein a distal end (16) of said intermediate portion is formed of said first metallic material and a proximal end (14) of said intermediate portion is formed of said second metallic material (paragraphs 14-15), and

- wherein said distal end of said intermediate portion is joined to said proximal end of said distal end side portion by welding (paragraphs 27-28) and said proximal end of said intermediate portion is joined to said distal end of said proximal end side portion by one of welding, soldering or brazing (paragraphs 27-28).

11. For claim 2, Skujins discloses a guide wire, wherein the weight ratio of said second metallic material in the metallic material mixture in said gradient physical property portion increases stepwise (paragraph 17) from the distal end side toward the proximal end side (paragraphs 16-25).

12. For claims 30-32, Skujins discloses a guide wire, wherein said intermediate portion is capable of being formed by sintering a metallic material mixture comprising a powder of said first metallic material and a powder of said second metallic material.

### ***Response to Arguments***

13. Applicant's arguments filed 04/05/2007 with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey G. Hoekstra whose telephone number is (571) 272-7232. The examiner can normally be reached on Monday through Friday 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.H./

Jeff Hoekstra

Examiner, Art Unit 3736



MARK LINDENBURG  
PATENT EXAMINER  
EBC CENTER 3700